

Notice of Allowability

Application No.

09/750,130

Examiner

Jonathan Ouellette

Applicant(s)

FRANK ET AL.

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/5/2005, 5/12/2006, and 5/23/2006.
2. ☒ The allowed claim(s) is/are 80,81 and 113-149.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>20060512</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Request for Continued Examination

1. The Request filed on 5/12/2006 for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/750,130 is acceptable and a RCE has been established. An action on the RCE follows.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. This Examiner's Amendment is a replication of the Examiner's amendment made in the original notice of allowance, mailed 2/7/06 (included for clarification purposes). Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
3. Authorization for this examiner's amendment was given in a telephone interview with the Attorney of record, Jeffrey Kuester (Reg.No. 34,367) on 1/24/2006.
4. The application has been amended as follows:
5. **Claim 124, line 17, before "comparing", add "automatically"; line 20, before "comparing", add "automatically"; line 23, before "selecting", add "automatically"; line 34, before "selected", add "automatically"; line 36, before "selected", add "automatically".**

6. Claim 130, line 1, before “comparing”, add “automatically”; line 4, before “determining”, add “automatically”.
7. Claim 131, line 5, before “comparing”, add “automatically”; line 8, before “determining”, add “automatically”.
8. Claim 132, line 5, before “comparing”, add “automatically”; line 8, before “determining”, add “automatically”.
9. Claim 133, line 3, before “comparing”, add “automatically”; line 6, before “determining”, add “automatically”.
10. Claim 134, line 1, before “selecting”, add “automatically”; line 4, before “selecting”, add “automatically”.
11. Claim 135, line 1, before “selecting”, add “automatically”; line 4, before “selecting”, add “automatically”; line 8, before “selected”, add “automatically”.
12. Claim 136, line 1, before “selecting”, add “automatically”; line 4, before “selecting”, add “automatically”; line 8, before “selected”, add “automatically”; line 10 after “each” and before “selected”, add “automatically”; line 10, after “plurality of” and before “selected”, add “automatically”.

Response to Amendment

12. Claims 80, 81, and 113-149 are pending in application 09/750,130. The Applicant has amended the Specification and Drawings for the purpose of correcting spelling errors within the drawings and grammatically clarifying the ordering of the examples contained in the specification. The Applicant has also completed the corrections and submitted formal

drawings, as required by the Draftsman (20060124, Tang) in the original notice of allowance mailed 2/7/06. The Examiner has determined that the amendments contain no new matter, and are therefore allowed.

Allowable Subject Matter

13. Claims 80, 81, and 113-149 are allowed.

Conclusion

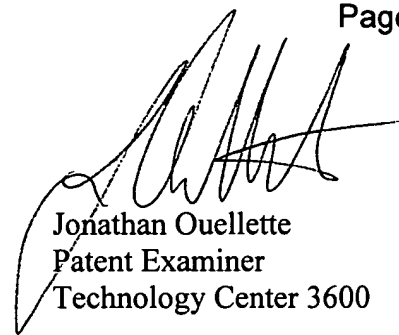
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
16. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

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August 9, 2006

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